

### **REMARKS**

Applicant requests reconsideration and allowance of the present application in view of the following remarks.

Claims 1-16 and 18-21 are pending in the present application. Claims 1, 8, and 18-21 are the independent claims.

No claims have been amended by the present Request.

Initially, Applicant acknowledges with appreciation the indication that claims 18-20 are allowed and that 4-7 and 11-16 recite patentable subject matter and would be allowable if rewritten in independent form to include all of the features of the base claim and any intervening claims. Applicants have not amended any of allowed claims 18-20 and have respectfully maintained claims 4-7 and 11-16 in dependent form because it is believed, for at least the reasons set forth below, that their respective base claims patentably define over the citations of record.

Claims 1-3, 8-10, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,325,352 (Matsumoto). All rejections are respectfully traversed.

Independent claim 21 recites, inter alia, building table of contents information for received data. Claim 21 defines this received data as being received by an encoder. Therefore, to render independent claim 21 obvious, Matsumoto must disclose building table of contents information for data received by an encoder from a host. Matsumoto, however, does not make such a disclosure. Instead, Matsumoto expressly teaches generating TOC information for information other than that received by the circuit alleged by the Office Action to constitute an encoder. As a result, the rejection of independent claim 21 is deficient.

Initially, Applicants again note that the Office Action fails to address expressly recited claim features. For example, the Office Action fails to identify or even address the express features of a host or what constitutes the received data recited in independent claim 21.

In rejecting independent claim 21, the Office Action contends that data forming circuit 32 is an encoder. (Office Action, page 4). That data forming circuit 32 receives both digital and analog input signals to be recorded on optical disk 21. (Matsumoto, Col. 5, lines 32-36; FIG. 1). Data forming circuit 32 is not disclosed to receive any other input signals to be recorded. Thus, assuming arguendo that the Office's characterization of Matsumoto is not incorrect, then:

- (1) the digital and/or the analog input signal received by the data forming circuit 32

must be alleged to be the “data received from a host” since only those signals are received by the data forming circuit 32; and

(2) to render independent claim 21 obvious, Matsumoto must at least disclose building TOC information for either the digital or analog input signal received by circuit 32.

Matsumoto, however, expressly teaches that the TOC generator 40 that generates TOC information for “program information.” (Matsumoto, Col. 5, lines 32-35). This program information is not received by the data forming circuit 32 (the alleged encoder). (See, e.g., Matsumoto, FIG. 1). And, Matsumoto does not disclose building TOC information for the data received by the data forming circuit (the alleged encoder). Indeed, the Office itself has conceded that this “program information” is not the same as data to be recorded on a disk. (Office Action, page 2). Thus, the rejection of independent claim 21 is traversed.

In the interest of compact prosecution, in the event that the Office maintains this rejection, Applicant respectfully requests that the Office identify with specificity at least one instance in the cited art where each and every feature of this claim is taught or suggested.

Independent claim 1 recites, inter alia, building information on an optical recording medium using record data. Claim 1 defines the record data as data to be recorded in a lead-in region of the optical recording medium and being sequentially transmitted from the host.

Independent claim 8 corresponds generally to independent claim 1 and recites similar features in apparatus form.

Therefore, to render independent claims 1 and 8 obvious, Matsumoto must disclose building information using data to be recorded in a lead-in region of the optical recording medium and being sequentially transmitted from the host. Matsumoto, however, does not make such a disclosure. Instead, Matsumoto expressly teaches that the TOC information alleged by the Office to be built information is generated for information that the Office expressly concedes is not the same as the record data recited in independent claims 1 and 8. As a result, the rejection of independent claims 1 and 8 is deficient.

To review, Matsumoto expressly teaches that TOC generator 40 generates TOC information for “program information.” (Matsumoto, Col. 5, lines 41-44). The Office Action contends that this TOC information is built information. (Office Action, page 3). This contention is respectfully traversed.

The Office has already expressly conceded that the “program information” for which the TOC is built “is not the record data to be record [sic] on the disk.” (Office Action, page 2).

Stated another way, Matsumoto expressly teaches that the TOC information is built using information that the Office itself asserts is not the same as the recited record data. Thus, the rejection of independent claims 1 and 8 is traversed.

In view of the foregoing, Applicant respectfully submits that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

Applicant submits that this Request for Reconsideration After Final Rejection clearly places the subject application in condition for allowance. This Request was not earlier presented because Applicants believed that the prior Request placed the subject application in condition for allowance. Accordingly, entry of the instant Request as an earnest attempt to advance prosecution and reduce the number of issues is requested under 37 C.F.R. § 1.116.

Applicant believes that the present Request is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to such matters.

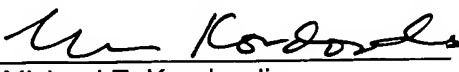
There being no further outstanding objections or rejections, it is submitted that the present application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any additional fees associated with filing of this Request, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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